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Letter dated 6 December 2016 from the Permanent Representative of Yemen to the United Nations addressed to the Secretary-General

Please find attached herewith the official position of the Government of the Republic of Yemen regarding the road map presented by the Special Envoy of the Secretary-General for Yemen, which highlights the inconsistencies between that road map and the peace terms (see annex).

I would greatly appreciate it if the present letter and its annex were circulated as a document of the Security Council.

(*Signed*) Khaled H. **Alyemany**
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Annex to the letter dated 6 December 2016 from the Permanent Representative of Yemen to the United Nations addressed to the Secretary-General

[Original: Arabic]

Inconsistencies between the road map proposed by the Special Envoy and the established terms of reference for addressing the Yemeni crisis

I. Introduction

As is well known, the Gulf Cooperation Council (GCC) initiative and its implementing mechanism set forth a road map consisting of two phases. The first phase would begin with the entry into force of the implementation mechanism and end with the inauguration of a President following an early presidential election. The election of President Abdrabuh Mansour Hadi Mansour confirmed the legitimacy of the process and was supported by Security Council resolutions 2014 (2011), 2051 (2012), 2140 (2014), 2175 (2014), 2201 (2015), 2204 (2015), 2216 (2015) and 2266 (2016), and by the presidential statements of 15 February 2013 (S/PRST/2013/3), 29 August 2014 (S/PRST/2014/18), 22 March 2015 (S/PRST/2015/8) and 25 April 2016 (S/PRST/2016/5). The second phase would begin with the inauguration of the President after the early presidential elections, and would end with a general election in accordance with the new Constitution.

The GCC initiative and its implementing mechanism provide that their implementation should be overseen by the elected authorities, which should convene a broad national dialogue leading to the adoption of the national constitution and election of the President of the Republic and the new legislative authority.

Because he was committed to the outcomes of the National Dialogue Conference, and because he sought to implement the GCC initiative and its implementing mechanism, President Hadi established the institutions provided for by the initiative. These included the National Dialogue Conference, the Constitution Drafting Committee and the national commission to monitor implementation of the outcomes of the Conference. The National Dialogue Conference culminated in a document on which Yemenis of all political allegiances agreed. That document became the draft constitution, which would be discussed and endorsed by the national commission before being voted on by the people. All 17 members of the Constitution Drafting Committee endorsed the draft constitution.

The Houthi-Saleh militias interrupted and reversed a clear and specific political process. They occupied the capital Sana'a by military force, plundered Government institutions, took weapons from barracks, placed President Hadi and senior members of the Government under house arrest, overran cities by force of arms, and used aircraft to bomb the headquarters of the elected President.

The transition took place under the auspices of the United Nations. Security Council resolutions have consistently stated that the Council would remain seized of the Yemeni situation and strongly encouraged the realization of a political transition

consisting of presidential elections, a dialogue conference and the drafting of a constitution.

Security Council resolutions have therefore clearly condemned the coup perpetrators, and clearly spelled out the need to turn the page of Ali Abdullah Saleh's rule as an essential step in order for the transition of power to be complete. The former President, Ali Abdullah Saleh, his son Ahmed Ali Abdullah Saleh, Abdulmalik al-Houthi and two leaders of the latter's group have been included on a sanctions list as threats to international peace and security. The resolutions have referred frankly to the Houthis as spoilers. For instance, the preambular section of Security Council resolution 2201 (2015) expresses alarm at the acts of violence committed by the Houthis and their supporters, which have undermined the political transition process in Yemen, and jeopardized the security, stability, sovereignty and unity of Yemen. The resolution thus states that it is the Houthis who have undermined the political process. Having specified who the spoilers are, the resolutions demand that the Houthis withdraw and relinquish their arms. Security Council resolution 2216 (2015), for instance, demands that they take those actions immediately and unconditionally.

We therefore believe that the road map is inconsistent with the provisions of those resolutions and the outcomes of the National Dialogue Conference. It completely reverses the GCC initiative and contradicts the will of the people and democratic methods. It accommodates a coup situation that imposed itself by force of arms. The most prominent inconsistencies between the road map and the terms of reference are set out below.

II. The road map supersedes the GCC initiative and its implementing mechanism

The GCC initiative and its implementing mechanism set forth in detail the entitlements that are applicable in the transitional period and the mechanisms for the transfer of power and the supervision of the transition phase. Because the GCC initiative and its implementing mechanism are part of the terms of reference of the political consultations, the political process should go back to the point that it had reached before being interrupted by the coup. However, the proposed road map is not based on the GCC initiative and its implementing mechanism. Rather, it sets out an alternative way to determine future entitlements, and describes a mechanism for the transfer of powers that is completely at odds with the one set out in the GCC initiative. The latter tasks the elected President and the Government with overseeing and following up implementation of the GCC initiative and its implementing mechanism. It provides as follows: "the newly elected President and the Government of national reconciliation shall exercise all of their customary functions as set forth in the Constitution. In addition, they shall exercise the powers necessary to continue the tasks specified for the implementation of the first phase, and additional tasks specified for the second phase of the transfer of power". The prerogatives of the elected President also include submitting the Constitution to a referendum, convening elections and appointing a head of Government. The road map is inconsistent with and clearly departs from those terms of reference.

III. The road map contravenes the outcomes of the National Dialogue Conference

(a) One such area is the appointment of the head of Government. The outcomes of the National Dialogue Conference provide as follows: "the President of the Republic shall exercise his constitutional prerogatives to change the Government in order to guarantee competence, transparency and national partnership. He shall do the same for the executive organs at the central level and in the governorates, in order to guarantee national partnership and competence".

(b) Another such area is the appointment of the Government. The Government is a State institution whose establishment was explicitly provided for by the GCC initiative, its implementing mechanism and the outcomes of the National Dialogue Conference, with a view to guaranteeing partnership and compromise in the fulfilment of its functions. The outcomes of the National Dialogue Conference task the President of the Republic with changing the Government with a view to guaranteeing competence, transparency and national partnership. The Ould Cheikh Ahmed road map violates that provision: it strips those rights from the elected President without justification, and grants them to a person to be appointed as a Vice-President. In so doing, it clearly contravenes the agreed terms of reference for that phase.

(c) The road map grants the National Commission the right to approve the members of the Government, something that contravenes the GCC initiative, its implementing mechanism and the outcomes of the National Dialogue Conference.

(d) The road map calls for a new dialogue regarding the points agreed upon at the all-inclusive National Dialogue Conference, including national reconciliation, transitional justice and the draft constitution. It would be impossible to reopen those issues, as doing so would contravene, or even reverse, the outcomes of the National Dialogue Conference. The road map proposed by Ould Cheikh Ahmed does not offer any solution to the current crisis. Instead, it bypasses the crisis to create new crises, propagate ideas that undermine the agreed terms of reference, sow the seeds of future conflicts, and reopen issues that Yemenis had settled and that had become part of the terms of reference to which they appeal.

(e) If the road map proposed by Ould Cheikh Ahmed were implemented in its current form, there would be negative repercussions for several issues, including the southern question, which is addressed in the outcomes of the National Dialogue Conference.

IV. The road map contravenes Security Council resolution 2216 (2015) and other relevant resolutions

(a) Security Council resolution 2216 (2015) and other relevant resolutions are based on a clear definition of the essence of the conflict in Yemen, namely, that it pits the elected authorities against a coup faction. All of the Security Council resolutions stem from the international community's recognition of the authority of the elected President, Abdrabuh Mansour Hadi. They presuppose the need to continue working with the legitimate, elected authorities against the coup faction in

order for the latter to submit to the State, return its looted weapons, relinquish its hold on the institutions and withdraw from the cities. In contrast, the substance of the road map is to entrench the coup against the authority of the elected President, Abdrabuh Mansour Had. The road map establishes an equivalence between the two sides and entrenches the authority of the coup, thereby contravening the substance and spirit of Security Council 2216 (2015).

(b) Security Council resolution 2216 (2015) unequivocally obliges the Houthis to withdraw immediately and unconditionally, refrain from using force, withdraw their forces from all areas and relinquish all of their weapons. Paragraph 1 demands that the Houthis immediately and unconditionally end the use of violence; withdraw their forces from all areas they have seized, including the capital Sana'a; and relinquish all additional arms seized from military and security institutions. The resolution also makes it clear that the Houthis should hand over to the legitimate authorities and reaffirms its support for the legitimacy of the President, Abdrabuh Mansour Hadi. Paragraph 1 calls for the Houthis to cease all actions that are exclusively within the authority of the legitimate Government of Yemen. That provision makes it clear that there is a side that should withdraw and hand over its weapons, namely, the Houthis and their allies, and another side that should take receipt of those weapons, namely, the legitimate authorities. However, the road map comes across as hesitant and vague. It provides that the weapons should be handed over to an unspecified third party, according to unspecified modalities. In so doing, it sows the seeds of crisis, disruption and discord.

(c) The proposed road map is mostly vague. It is broad where it should be detailed, and detailed where it could have been broad. Ironically, the only clear point in it is the mechanism by which the elected President would hand over his power and relinquish his prerogatives. The road map clearly identifies the mechanism by which the elected President would hand over power, in a manner that is contrary to the Constitution and the terms of reference; yet it is less clear in specifying the fate of the coup leaders, those included on the international sanctions list, and the leaders involved in war crimes against Yemenis. Paragraphs 16-19 of Security Council resolution 2216 (2015), and paragraphs 17-19 of Security Council resolution 2140 (2014), address the sanctions imposed on Ali Abdullah Saleh, his son Ahmed Ali Abdullah Saleh, Abdulmalik al-Houthi, Abd al-Khaliq al-Houthi, Abu Ali al-Hakim as threats to international peace and security. The road map ignores the future of the former President, his family members and the coup leaders of the Houthi group. It is as though the legitimate Government were the one guilty of the coup.

(d) The road map does not provide sufficient assurances of success; it merely urges the parties to implement it. It is important to recall the course of the conflict in Yemen. The Houthi group began by overthrowing the authorities in the district of Dammaj, and then in the city of Amran. Next, they besieged and stormed the capital; surrounded and attempted to kill the President; and completed the takeover of the cities of Ta'izz, Hudaydah, Bayda' and even Aden. The international community, including the sponsor States, has engaged with the facts on the ground, rather than with the provisions of the Security Council resolutions, which are binding. It has failed to put pressure on the coup faction, or to enforce its resolutions. Because of that catalogue of failures, the assurances provided are inadequate.

We fear that attempts to undermine or detract from legitimate authority raise numerous risks. Most importantly, there is a threat that if this plan fails, as it surely will, the conflict will become a clash of identities, one that is waged on a confessional, sectarian or ethnic basis. It is plain for all to see that only terrorist, violent and extremist groups would stand to gain.

V. The road map raises numerous security problems

(a) The road map does not clearly specify a mechanism for the establishment of the military and security committee, or the prerequisites for membership. That topic took up most of the negotiations in Kuwait, but no agreement was reached. We wish to emphasize that establishing such committees and determining their functions is the prerogative of the elected President.

(b) The road map calls for a tentative agreement that includes both security and political arrangements. That idea is contrary to the provisions of Security Council resolution 2216 (2015), paragraph 1, subparagraphs (b) through (e) of which set out clear arrangements for implementing the resolution. First, the Houthis should immediately withdraw their forces from all areas they have seized. Next, they should relinquish all additional arms seized from military and security institutions. The idea of a security and military plan presupposing that the coup should first come to an end has been conflated with the political process defined by the GCC initiative from the beginning of the transfer of power to the election of a new President on the basis of the new Constitution.

(c) In order to secure the cities and, in particular, the city of Sana'a, the road map relies on the security and military forces that are present there. Some of those forces would be requested to leave, and others would stay in the city in order to keep it secure. That division ignores the fact that the forces located in Sana'a are mostly completely loyal to the former President and the Houthis. It would have been more appropriate for the road map to propose a mechanism ensuring that the security and military forces are established on the basis of loyalty to the nation, rather than being based on the forces currently in place, which mostly come from specific areas and whose loyalty is not to the nation.

(d) The road map does not specify what will happen to soldiers who joined the army and security forces after the coup, or what will happen to the new military and security decisions taken by the de facto authorities, or how to address the significant changes made by the coup militias to the military and security environment; tens of thousands of coup militia fighters have joined the military and security institutions.

(e) The road map proposes that ballistic missiles should be handed over to a third party. It also mentions military and security committees without specifying how they should relate to the Government. This means that new military forces will emerge. The road map does not set out a working mechanism for those forces, or specify how they should be regulated or coordinate with one another.

(f) The road map does not provide for a full withdrawal from all governorates and institutions. It does not even specify that the withdrawals from Sana'a, Hudaydah and Ta'izz should take place concurrently. It does not specify

how medium and heavy weapons should be handed over, or the types and quantities of such weapons, which, along with vehicles and other materiel, were looted from the general depot of the armed forces, military zones, divisions and brigades, the depots of the Ministry of the Interior in all regions and sectors, the counter-terrorism units and the security services (National Security, Political Security and Military Intelligence). Other weapons, equipment, vehicles and missiles were obtained during and after the coup through illegal means, including smuggling.

(g) The security road map mentions military units, but fails to address armed militias, popular committees, revolutionary committees, or the military entities that are currently administering Sana'a by force of arms.

Conclusion

(a) The road map proposed by Ould Sheikh Ahmed flagrantly reverses the three terms of reference. It is a free gift to the coup forces, and it legitimizes their rebellion and their heinous, destructive project. It sows the seeds of a new phase of bloody conflict.

(b) It sets a dangerous international precedent that encourages coups against elected authorities and national consensus.

(c) The peaceful transition of power that took place in Yemen in 2012 followed a peaceful revolution across the country and a political agreement that was enshrined in the GCC initiative and its implementing mechanism and endorsed by the international community. The agreement led to the free and transparent election of the President of the Republic, as is stated in all of the Security Council resolutions and statements referred to above. However, the mechanism for the transition of power proposed by the Ould Cheikh Ahmed road map seeks to entrench the coup and armed rebellion, providing them with complete cover and paving the way for their recognition by the international community. This also poses a direct threat to the security and stability of neighbouring States, the region and the international community.

(d) If implemented, the proposed road map would reformulate the concept of national partnership developed at the National Dialogue Conference. The new concept would divide power between the legitimate authorities and the authors of the coup, and it would confirm and entrench that arrangement. For the sake of the nation and the future, that outcome must not be accepted.

(e) The road map clearly reverses all of the work and search for consensus that took place under the leadership of the Special Envoy of the Secretary-General in a series of negotiations in Geneva, Biel and Kuwait.

(f) The Ould Cheikh Ahmed road map ignores the repercussions of the coup. For instance, Yemen has become a base for attacks against its neighbours. Missiles are launched every day at Saudi Arabia and its holy sites, something that has shocked the conscience of 1.5 billion Muslims around the world. The situation also poses a threat to international navigation; the strike on the United Arab Emirates vessel and the attempted strikes on United States ships in the Red Sea are cases in point. Regional peace and security have been endangered. The interests of the

Yemeni people have been jeopardized: remittances from Yemenis in neighbouring States, particularly Saudi Arabia, are an important source of revenue and help to shore up the national economy. Lastly, the situation harms the country's historic relations with its neighbours and the region.

Further to those considerations and the comments made above regarding the Special Envoy's plan, we wish to stress that any political solution must be governed by the following points:

(a) A full commitment to the letter and spirit of the three agreed terms of reference, namely, the Security Council resolutions on Yemen, particularly Security Council resolution 2216 (2015); the GCC initiative and its implementing mechanism; and the outcomes of the National Dialogue Conference.

(b) As a basis for any political solution, the coup and its repercussions must be taken out of the picture and considered null and void. The political process must pick up from where it left off, and the legitimate, elected authorities can be changed only through elections. The coup is an obstacle that halted the implementation of the GCC initiative; in order for the political process to be back on track, it must be removed.

(c) Ali Abdullah Saleh, Abdul-Malik al-Houthi, the other individuals listed in Security Council resolutions, and those found to have been involved in the coup or in crimes against civilians, must leave political life. Along with their families, they should go into voluntary exile for at least ten years. The international sanctions adopted against them must be enforced.

(d) The coup militias must withdraw from al towns and institutions, hand over their medium and heavy weapons, and resume the political process from where it left off. The Houthi group must declare that it is committed to a political solution, reject violence, fully abandon armed struggle, and become a civilian political party in accordance with the Constitution and the laws in force.

(e) The so-called constitutional declaration must be rescinded, and all of the decisions taken pursuant to it must be deemed null and void from a constitutional and legal standpoint. The so-called revolutionary committees must be disbanded at all levels; the so-called Political Council must be dissolved; and all aspects and consequences of the coup must be eradicated.

(f) All political prisoners and abductees must immediately be released, and the coup coalition must announce that those directly responsible for the coup will be subjected to a fair trial.

(g) The rights of those affected by the coup must be upheld. This includes those whose homes were demolished using explosives and those who were jailed or abducted. Transitional justice must be realized for all of them and on behalf of those who died in the coup.

If those measures are not taken, any solution will be unfair and will not bring peace and security to Yemenis. Rather it will exacerbate their suffering and pave the way for chaos, poverty and the continued absence of the State, which will only benefit terrorist and violent armed groups.